

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

LAMAR A. MORGAN,

Defendant.

CIVIL ACTION

No. 07-2187-CM

No. 04-20016-CM

ORDER

On December 14, 2007, this court denied petitioner's *pro se* motion to vacate, set aside, or correct his sentence (Doc. 119). Petitioner has now filed a request for a certificate of appealability and notice of appeal (Docs. 124 and 125), claiming that he did not receive notice of the court's December 14, 2007 order. The court will issue a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Under this standard, a petitioner must show that "reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal quotation marks and citation omitted).

Even assuming that petitioner is justified in filing his motion and appeal in an untimely manner, he is not entitled to a certificate of appealability. In his motion, petitioner merely requests to proceed based on the facts argued in his motion. For the reasons stated in the court's Memorandum and Order filed December 14, 2007, the court finds that petitioner has not made a substantial showing of the denial of a constitutional right.

IT IS THEREFORE ORDERED that petitioner's request for a certificate of appealability (Doc. 124) is denied.

Dated this 23rd day of July, 2009, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge